

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

BOBBY LEONARD,

Petitioner,

V.

2:06-CV-0017

DOUGLAS DRETKE, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

CLERK, U.S. DISTRICT COURT
By _____ Deputy _____

Deputy

Deputy

ORDER ADOPTING REPORT AND RECOMMENDATION,
OVERRULING OBJECTIONS,
DENYING APPLICATION TO PROCEED *IN FORMA PAUPERIS*,
and DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS

Came this day for consideration the petition for a federal writ of habeas corpus filed by petitioner BOBBY LEONARD, wherein petitioner challenges the result of a prison disciplinary proceeding. Said habeas petition was filed without prepayment of the required \$5.00 filing fee. Instead, petitioner submitted, with his petition for habeas relief, a "Motion for Leave to Proceed *In Forma Pauperis*." On January 26, 2006 an Order Temporarily Granting Permission to Proceed *In Forma Pauperis* Pending Supplementation was entered. On February 22, 2006, petitioner LEONARD submitted a certified *in forma pauperis* data sheet from the penal institution in which he is incarcerated.

On February 27, 2006, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that petitioner's motion for leave to proceed *In Forma Pauperis* be denied, and that the petition for a writ of habeas corpus filed by

petitioner be dismissed for failure to pay the \$5.00 filing fee. On March 7, 2006, petitioner LEONARD filed objections to the Report and Recommendation. As a result, petitioner was again temporarily granted permission to proceed pending payment of the filing fee. Petitioner was given until September 7, 2006, a period of six (6) months, in which to pay the filing fee. On May 4, 2006 petitioner was ordered to submit a status report along with a current data sheet. Petitioner failed to respond to the order and on May 24, 2006 an Order to Show Cause issued ordering petitioner to show cause why his temporary *in forma pauperis* status should not be revoked and his case be considered for possible dismissal. On June 5, 2006, petitioner filed an Advisory to the Court in which he states he had requested prison officials to pay the \$5.00 filing fee. Petitioner also filed a current data sheet which showed he was still ineligible for *in forma pauperis* status. Petitioner has not communicated with the Court since June 5, 2006 and his filing fee has not been received by the United States District Clerk.

The undersigned United States District Judge has made an independent examination of the record in this case. The Magistrate Judge's February 27, 2006 Report and Recommendation is hereby ADOPTED, and petitioner's objections are hereby DENIED. Accordingly, petitioner's "Motion for Leave to Proceed *In Forma Pauperis*" is DENIED, and the petition for a writ of habeas corpus filed by petitioner BOBBY LEONARD is DISMISSED.

IT IS SO ORDERED.

ENTERED this 14 day of September 2006.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE